

Whereas TRIO programs have a record of success in providing students information about college, motivating them to attend college, and enabling them to succeed in college;

Whereas the TRIO programs in the last two decades have produced hundreds of thousands of educational success stories, including two Rhodes Scholars and the first Hispanic astronaut;

Whereas, absent action by the Congress, the Gramm-Rudman-Hollings legislation will eliminate 38,500 students from the TRIO programs in fiscal year 1986, and an additional 123,400 students in fiscal year 1987; and

Whereas, absent action by the Congress, over 300 colleges and universities will lose TRIO programs as a result of the Gramm-Rudman-Hollings legislation by fiscal year 1987: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That February 28, 1986, be declared "National TRIO Day", a day on which the Nation is asked to turn its attention to the needs of disadvantaged young people and adults aspiring to improve their lives, to the investment necessary if they are to become contributing citizens of this country, and to the talent which will be wasted if that investment is not made.

Agreed to March 21, 1986.

Mar. 24, 1986  
[H. Con. Res. 304]

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on Tuesday, March 25, 1986, and that when the Senate adjourns on Wednesday, March 26, 1986, or on Thursday, March 27, 1986, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, they stand adjourned until 12 o'clock meridian on Tuesday, April 8, 1986, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution whichever occurs first.

SEC. 2. The Speaker of the House, after consultation with the Minority Leader of the House, and the Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, acting jointly, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Agreed to March 24, 1986.

Mar. 26, 1986  
[H. Con. Res. 305]

## ENROLLMENT CORRECTIONS—H.R. 3128

*Resolved by the House of Representatives (the Senate concurring),* That, in the enrollment of the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, the Clerk of the House of Representatives shall make the following corrections:

Insurance.  
Ante, p. 82.

(1) SECTION 11001.—In section 11001 of the bill, strike out “1985” and insert in lieu thereof “1986”.

(2) SECTION 11002 (c).—In section 11002(c) of the bill, strike out “Act” and insert in lieu thereof “title”.

(3) SECTION 11004.—In section 11004 of the bill—

(A) in section 4001(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (hereinafter in this resolution referred to as “ERISA”), as proposed to be amended, strike out “affiliated group” and all that follows and insert in lieu thereof “controlled group, and”;

(B) in section 4001(a)(13)(A) of ERISA, as proposed to be added, insert “, in connection with such plan,” after “responsible”;

(C) in section 4001(a)(14)(B) of ERISA, as proposed to be added, strike out “section 414(c)” and insert in lieu thereof “subsections (b) and (c) of section 414”;

(D) in section 4001(a)(15) of ERISA, as proposed to be added, strike out “, except as otherwise specifically provided in this title,”;

(E) in section 4001(a)(17)(B) of ERISA, as proposed to be added, strike out “as of such date” and insert in lieu thereof “(as of such date)”;

(F) in section 4001(a)(18) of ERISA, as proposed to be added, strike out “of” the fourth place it appears in subparagraph (A) and insert in lieu thereof “to”, and strike out “as of such date” in subparagraph (B) and insert in lieu thereof “(as of such date)”;

(G) in section 4001(a)(19) of ERISA, as proposed to be added, strike out “of” the fifth place it appears in subparagraph (A) and insert in lieu thereof “to”, and insert “required to be” after “are” in subparagraph (B).

(4) SECTION 11004 (b).—In section 11004(b) of the bill—

(A) strike out “paragraphs” and insert in lieu thereof “paragraph”; and

(B) strike out paragraphs (2) and (3) of section 4001(b) of ERISA, as proposed to be added, and insert in lieu thereof the following:

“(2) For purposes of subtitle E—

“(A) except as otherwise provided in subtitle E, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c)(10) of the Internal Revenue Code of 1954 (determined, in the case of a terminated plan, as if the plan had continued beyond the termination date), and

“(B) the term ‘Secretary of the Treasury’ means the Secretary of the Treasury or such Secretary’s delegate.”.

(5) SECTION 11005(c).—In section 11005(c)—

(A) redesignate paragraphs (9) and (10) as paragraphs (10) and (11), respectively;

(B) insert after paragraph (8) the following new paragraph (9):

“(9) Subsection (f)(4)(C) of section 4022A (29 U.S.C. 1322a(f)(4)(C)) is amended by striking out ‘concurrent’ and inserting in lieu thereof ‘joint’.”; and

(C) insert after paragraph (11) (as redesignated) the following new paragraph (12):

“(12) Subsection (g)(4)(D) of section 4022A (29 U.S.C.

1322a(g)(4)(D)) is amended by striking out 'concurrent' and inserting in lieu thereof 'joint'."

(6) SECTION 11005.—In section 11005 of the bill, add at the end the following new subsection:

"(e) TRANSITIONAL RULE.—

"(1) NOTICE OF PREMIUM INCREASE.—Not later than 30 days after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation shall send a notice to the plan administrator of each single-employer plan affected by the premium increase established by the amendment made by subsection (a)(1). Such notice shall describe such increase and the requirements of this subsection.

"(2) DUE DATE FOR UNPAID PREMIUMS.—With respect to any plan year beginning during the period beginning on January 1, 1986, and ending 30 days after the date of the enactment of this Act, any unpaid amount of such premium increase shall be due and payable no later than the earlier of 60 days after the date of the enactment of this Act or 30 days after the date on which the notice required by paragraph (1) is sent, except that in no event shall the amount of the premium increase established under the amendment made by subsection (a)(1) be due and payable for a plan year earlier than the date on which premiums for the plan would have been due for such plan year had this Act not been enacted.

"(3) ENFORCEMENT.—For purposes of enforcement, the requirements of paragraphs (1) and (2) shall be considered to be requirements of sections 4006 and 4007 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306 and 1307)."

(7) SECTION 11006(a).—In section 11006(a) of the bill, in section 204(h) of ERISA, as proposed to be added—

(A) strike out "on or after the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1985"; and

(B) in paragraph (2), strike out "under the plan who is a beneficiary of a deceased participant or".

(8) SECTION 11006(b).—In section 11006(b) of the bill, strike out "the date described in section 11019(a)" and insert in lieu thereof "January 1, 1986, except that, in the case of plan amendments adopted on or after January 1, 1986, and on or before the date of the enactment of this Act, the requirements of section 204(h) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be treated as met if the written notice required under such section 204(h) is provided before 60 days after the date of the enactment of this Act".

(9) SECTION 11007(a).—In section 11007(a) of the bill, in section 4041(a)(2) of ERISA, as proposed to be amended, strike out "plan termination under subsection (b) or (c)" and insert in lieu thereof "standard termination under subsection (b) or a distress termination under subsection (c)", and insert "of" after "case".

(10) SECTION 11008(a).—In section 11008(a) of the bill—

(A) in section 4041(b)(2)(A) of ERISA, as proposed to be amended, strike out "the termination date proposed in the notice" and insert in lieu thereof "the date on which the notice of intent to terminate is", and in clause (iii), strike out "is" and insert in lieu thereof "are";

(B) in section 4041(b)(2)(B) of ERISA, as proposed to be

amended, strike out "At the time" and insert in lieu thereof "No later than the date on which", and in clause (i), strike out ", expressed in terms of the normal form of benefits under the plan," and insert in lieu thereof "and the benefit form on the basis of which such amount is determined";

(C) in section 4041(b)(2)(C)(i) of ERISA, as proposed to be amended, strike out "provide the plan administrator with a notice of noncompliance" and insert in lieu thereof "issue a notice of noncompliance to the plan administrator", and in subclause (I), strike out "the requirements of subsection (a)(2) and subparagraphs (A) and (B) have" and insert in lieu thereof "any requirement of subsection (a)(2) or subparagraph (A) or (B) has";

(D) in section 4041(b)(3)(A) of ERISA, as proposed to be amended, strike out "the termination of the plan" and insert in lieu thereof "the standard termination of the plan under this subsection", and in clauses (i) and (ii), strike out "are allocated" each place it appears and insert in lieu thereof "are required to be allocated"; and

(E) in section 4041(b)(3)(B) of ERISA, as proposed to be amended, strike out "the termination of the plan" and insert in lieu thereof "the standard termination of a plan under this subsection", and strike out "are allocated" and insert in lieu thereof "are required to be allocated".

(11) SECTION 11008(b).—In section 11008 of the bill, strike out subsection (b) and insert in lieu thereof the following:

"(b) CONFORMING AMENDMENT.—Section 4041(f) (29 U.S.C. 1341(f)) is amended to read as follows:

"(f) LIMITATION ON THE CONVERSION OF A DEFINED BENEFIT PLAN TO A DEFINED CONTRIBUTION PLAN.—The adoption of an amendment to a plan which causes the plan to become a plan described in section 4021(b)(1) constitutes a termination of the plan. Such an amendment may take effect only after the plan satisfies the requirements for standard termination under subsection (b) or distress termination under subsection (c)."

(12) SECTION 11008(c).—In section 11008(c) of the bill, strike out "May 1, 1986," and insert in lieu thereof "120 days after the date of the enactment of this Act,".

(13) SECTION 11008(d).—In section 11008(d) of the bill, strike out paragraphs (1) and (2) and insert in lieu thereof the following paragraphs (1) and (2):

"(1) REQUIREMENTS TO BE MET BEFORE FINAL DISTRIBUTION OF ASSETS.—In the case of the termination of a single-employer plan described in paragraph (2) with respect to which the amount payable to the employer pursuant to section 4044(d) exceeds \$1,000,000 (determined as of the proposed date of final distribution of assets), the final distribution of assets pursuant to such termination may not occur unless the Pension Benefit Guaranty Corporation—

"(A) determines that the assets of the plan are sufficient for benefit commitments (within the meaning of section 4041(d)(1) of the Employee Retirement Income Security Act of 1974 (as amended by section 11007)) under the plan, and

"(B) issues to the plan administrator a written notice setting forth the determination described in subparagraph (A).

"(2) PLANS TO WHICH SUBSECTION APPLIES.—A single-employer plan is described in this paragraph if—

“(A) the plan administrator has filed a notice of intent to terminate with the Pension Benefit Guaranty Corporation, and—

“(i) the filing was made before January 1, 1986, and the Corporation has not issued a notice of sufficiency for such plan before the date of the enactment of this Act, or

“(ii) the filing is made on or after January 1, 1986, and before 60 days after the date of the enactment of this Act and the Corporation has not issued a notice of sufficiency for such plan before the date of the enactment of this Act, and

“(B) of the persons who are (as of the termination date) participants in the plan, the lesser of 10 percent or 200 have filed complaints with the Corporation regarding such termination—

“(i) in the case of plans described in subparagraph (A)(i), before 15 days after the date of the enactment of this Act, or

“(ii) in any other case, before the later of 15 days after the date of the enactment of this Act or 45 days after the date of the filing of such notice.”

(14) SECTION 11008(d)(4)(A).—In section 11008(d)(4)(A) of the bill, strike out “paragraph (1)(C)” and insert in lieu thereof “paragraph (1)(B)”.

(15) SECTION 11008(d)(4)(B).—In section 11008(d)(4)(B) of the bill, strike out “The preceding provisions of this subsection shall not apply (except in the case of an acquisition, takeover, or leveraged buyout)” and insert in lieu thereof “Except in the case of an acquisition, takeover, or leveraged buyout, the preceding provisions of this subsection shall not apply”, and strike out “it” and insert in lieu thereof “the contributing sponsor”.

(16) SECTION 11009(a).—In section 11009(a) of the bill—

(A) strike out “title” and insert in lieu thereof “Act”;

(B) in section 4041(c)(2)(A) of ERISA, as proposed to be amended, strike out “the termination date proposed in the notice of intent to terminate provided” and insert in lieu thereof “the date on which the notice of intent to terminate is provided”, and strike out “is” in clause (iv) and insert in lieu thereof “are”;

(C) in section 4041(c)(2)(B) of ERISA, as proposed to be amended, insert “(as of the termination date)” after “each person who is”, strike out “it” in clause (i)(I) and insert in lieu thereof “such person”, strike out “it” in clause (ii)(I) and insert in lieu thereof “such person”, and insert “to such person” after “unreasonably burdensome” in clause (iii)(II);

(D) in section 4041(c)(2)(C) of ERISA, as proposed to be amended, strike out the last sentence;

(E) in section 4041(c)(3)(A) of ERISA, as proposed to be amended, strike out “whether” each place it appears in clauses (i) and (ii) and insert in lieu thereof “that”;

(F) in section 4041(c)(3)(B) of ERISA, as proposed to be amended—

(i) strike out “in the manner described in subsection (b)(3), and” in clause (i) and insert in lieu thereof “, and make certification to the corporation with respect to



such distribution, in the manner described in subsection (b)(3), and shall”;

(ii) strike out “that the plan is not sufficient for benefit commitments (or” in clause (ii), strike out “it” in clause (ii) and insert in lieu thereof “it”, strike out “whether” in clause (ii) and insert in lieu thereof “that”, insert after “subsection (b)(3),” in clause (ii)(I) the following: “make certification to the corporation that the distribution has occurred, and take such actions as may be appropriate to carry out the termination of the plan,”; and

(iii) strike out “that the plan is not sufficient for guaranteed benefits (or” in clause (iii), strike out “it” in clause (iii) and insert in lieu thereof “it”, and strike out “whether” in clause (iii) and insert in lieu thereof “that”;

(G) in section 4041(c)(3)(C) of ERISA, as proposed to be amended, strike out clauses (i) and (ii) and insert in lieu thereof the following:

“(i) FINDING WITH RESPECT TO BENEFIT COMMITMENTS WHICH ARE NOT GUARANTEED BENEFITS.—If, after the plan administrator has begun to terminate the plan as authorized under subparagraph (B)(i), the plan administrator finds that the plan is unable, or will be unable, to pay benefit commitments which are not benefits guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation concurs in the finding of the plan administrator (or the corporation itself makes such a finding) the corporation shall take the actions set forth in subparagraph (B)(ii)(II) relating to the trust established for purposes of section 4049.

“(ii) FINDING WITH RESPECT TO GUARANTEED BENEFITS.—If, after the plan administrator has begun to terminate the plan as authorized by subparagraph (B) (i) or (ii), the plan administrator finds that the plan is unable, or will be unable, to pay all benefits under the plan which are guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation concurs in the finding of the plan administrator (or the corporation itself makes such a finding), the corporation shall institute appropriate proceedings under section 4042.”; and

(H) in section 4041(c)(3) of ERISA, as proposed to be amended, strike out subparagraph (D) and insert in lieu thereof the following:

“(D) ADMINISTRATION OF THE PLAN DURING INTERIM PERIOD.—

“(i) IN GENERAL.—The plan administrator shall—

“(I) meet the requirements of clause (ii) for the period commencing on the date on which the plan administrator provides a notice of distress termination to the corporation under subsection (a)(2) and ending on the date on which the plan administrator receives notification from the corporation of its determinations under subparagraph (A), and

"(II) meet the requirements of clause (ii) commencing on the date on which the plan administrator or the corporation makes a finding under subparagraph (C)(ii).

"(ii) REQUIREMENTS.—The requirements of this clause are met by the plan administrator if the plan administrator—

"(I) refrains from distributing assets or taking any other actions to carry out the proposed termination of this subsection,

"(II) pays benefits attributable to employer contributions, other than death benefits, only in the form of an annuity,

"(III) does not use plan assets to purchase irrevocable commitments to provide benefits from an insurer, and

"(IV) continues to pay all benefit commitments under the plan, but, commencing on the proposed termination date, limits the payment of benefits under the plan to those benefits which are guaranteed by the corporation under section 4022 or to which assets are required to be allocated under section 4044.

In the event the plan administrator is later determined not to have met the requirements for distress termination, any benefits which are not paid solely by reason of compliance with subclause (IV) shall be due and payable immediately (together with interest, at a reasonable rate, in accordance with regulations of the corporation)."

(17) SECTION 11009(b).—In section 11009(b) of the bill, strike out "Act" and insert in lieu thereof "title".

(18) SECTION 11010(a)(1).—In section 11010(a)(1) of the bill, strike out subparagraph (B) and insert in lieu thereof the following:

"(B) by inserting at the beginning of the matter following paragraph (4) the following new sentence: 'The corporation shall as soon as practicable institute proceedings under this section to terminate a single-employer plan whenever the corporation determines that the plan does not have assets available to pay benefits which are currently due under the terms of the plan.'"

(19) SECTION 11010(a)(2)(A).—In section 11010(a)(2)(A) of the bill, strike out "court".

(20) SECTION 11010(a)(2)(B).—In section 11010(a)(2)(B) of the bill, strike out "it may," and insert in lieu thereof "has determined", strike out "court", and strike out "(whether" and all that follows down through "shall,".

(21) SECTION 11010(b).—In section 11010 of the bill, insert after subsection (a) the following new subsection:

"(b) ESTABLISHMENT OF SECTION 4049 TRUST.—Section 4042 is further amended by adding at the end thereof the following new subsection:

"(i) In any case in which a plan is terminated under this section in a termination proceeding initiated by the corporation pursuant to subsection (a), the corporation shall establish a separate trust in connection with the plan for purposes of section 4049, unless the corporation determines that all benefit commitments under the plan are benefits guaranteed by the corporation under section 4022 or that there is no amount of unfunded benefit commitments under the plan.'"

(22) SECTION 11011(a).—In section 11011(a) of the bill, strike out “(a) Liability” and all that follows down through “following,” and insert in lieu thereof the following:

“(a) LIABILITY FOR DISTRESS TERMINATIONS AND TERMINATIONS BY THE CORPORATION.—Section 4062 (29 U.S.C. 1362) is amended—

“(1) by redesignating subsection (e) as subsection (f); and  
“(2) by striking out so much as precedes subsection (f) (as redesignated) and inserting in lieu thereof the following:”.

(23) SECTION 11011(a).—In section 11011(a) of the bill, in section 4062(a) of ERISA, as proposed to be amended, insert a comma after “corporation” in paragraph (1), insert “or section 4042(i),” after “or (iii)” in paragraph (2), and strike out “referred to in section 4042(d)(1)(B)” in paragraph (3) and insert in lieu thereof “appointed under subsection (b) or (c) of section 4042.”

(24) SECTION 11011(a).—In section 11011(a) of the bill, strike out section 4026(b) of ERISA, as proposed to be amended, and insert in lieu thereof the following:

“(b) LIABILITY TO THE CORPORATION.—

“(1) AMOUNT OF LIABILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the liability to the corporation of a person described in subsection (a) shall consist of the sum of—

“(i) the lesser of—

“(I) the total amount of unfunded guaranteed benefits (as of the termination date) of all participants and beneficiaries under the plan, or

“(II) 30 percent of the collective net worth of all persons described in subsection (a),

and

“(ii) the excess (if any) of—

“(I) 75 percent of the amount described in clause (i)(I), over

“(II) the amount described in clause (i)(II), together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the corporation.

“(B) SPECIAL RULE IN CASE OF SUBSEQUENT INSUFFICIENCY.—For purposes of subparagraph (A), in any case described in section 4041(c)(3)(C)(ii), actuarial present values shall be determined as of the date of the notice to the corporation (or the finding by the corporation) described in such section.

“(2) PAYMENT OF LIABILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the liability to the corporation under this subsection shall be due and payable to the corporation as of the termination date, in cash or securities acceptable to the corporation.

Securities.

“(B) SPECIAL RULE.—Payment of the liability under paragraph (1)(A)(ii) shall be made under commercially reasonable terms prescribed by the corporation. The parties involved shall make a reasonable effort to reach agreement on such commercially reasonable terms. Any such terms prescribed by the corporation shall provide for deferral of 50 percent of any amount of liability otherwise payable for any year under this subparagraph if a person subject to such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any



individual pre-tax profits for such person's fiscal year ending during such year.

"(3) **ALTERNATIVE ARRANGEMENTS.**—The corporation and any person liable under this section may agree to alternative arrangements for the satisfaction of liability to the corporation under this subsection."

(25) **SECTION 11011(a).**—In section 11011(a) of the bill, strike out section 4062(c) of ERISA, as proposed to be amended, and insert in lieu thereof the following:

"(c) **LIABILITY TO SECTION 4049 TRUST.**—

"(1) **AMOUNT OF LIABILITY.**—

"(A) **IN GENERAL.**—In any case in which there is an outstanding amount of benefit commitments under a plan terminated under section 4041(c) or 4042, a person described in subsection (a) shall be subject to liability under this subsection to the trust established under section 4041(c)(3)(B) (ii) or (iii) or section 4042(i) in connection with the terminated plan. Except as provided in subparagraph (B), the liability of such person under this subsection shall consist of the lesser of—

"(i) 75 percent of the total outstanding amount of benefit commitments under the plan, or

"(ii) 15 percent of the actuarial present value (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of all benefit commitments under the plan.

"(B) **SPECIAL RULE IN CASE OF SUBSEQUENT INSUFFICIENCY.**—For purposes of subparagraph (A)—

"(i) **PLANS INSUFFICIENT FOR GUARANTEED BENEFITS.**—In any case described in section 4041(c)(3)(C)(ii), actuarial present values shall be determined as of the date of the notice to the corporation (or the finding by the corporation) described in such section.

"(ii) **PLANS SUFFICIENT FOR GUARANTEED BENEFITS BUT INSUFFICIENT FOR BENEFIT ENTITLEMENTS.**—In any case described in section 4041(c)(3)(C)(i) but not described in section 4041(c)(3)(C)(ii), actuarial present values shall be determined as of the date on which the final distribution of assets is completed.

"(2) **PAYMENT OF LIABILITY.**—

"(A) **GENERAL RULE.**—Except as otherwise provided in this paragraph, payment of a person's liability under this subsection shall be made for liability payment years under commercially reasonable terms prescribed by the fiduciary designated by the corporation pursuant to section 4049(b)(1)(A). Such fiduciary and the liable persons assessed liability under this subsection shall make a reasonable effort to reach agreement on such commercially reasonable terms.

"(B) **SPECIAL RULE FOR PLANS WITH LOW AMOUNTS OF LIABILITY.**—In any case in which the amount described in paragraph (1)(A) is less than \$100,000, the requirements of subparagraph (A) may be satisfied by payment of such liability over 10 liability payment years in equal annual installments (with interest at the rate determined under section 6621(b) of the Internal Revenue Code of 1954). The corporation may, by regulation, increase the dollar amount

referred to in this subparagraph as it determines appropriate, taking into account reasonable administrative costs of trusts established under section 4041(c)(3)(B) (ii) or (iii) or section 4042(i).

“(C) DEFERRAL OF PAYMENTS.—The terms for payment provided for under subparagraph (A) or (B) shall also provide for deferral of 75 percent of any amount of liability otherwise payable for any liability payment year if a person subject to such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any individual pre-tax profits for such person's fiscal year ending during such year. The amount of liability so deferred is payable only after payment in full of any amount of liability under subsection (b) in connection with the termination of the same plan which has been deferred pursuant to terms provided for under subsection (b)(2)(B).”

(26) SECTION 11011(a).—In section 11011(a) of the bill, in section 4062(d) of ERISA, as proposed to be amended, strike out “referred to in section 4042(d)(1)(B)” and insert in lieu thereof “appointed under subsection (b) or (c) of section 4042” and in the matter following paragraph (3), insert “(at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the corporation” after “interest”.

(27) SECTION 11011(a).—In section 11011(a) of the bill, in section 4062(e)(3) of ERISA, as proposed to be amended, strike out “begins” and insert in lieu thereof “ends”.

(28) SECTION 11011(b).—In section 11011(b) of the bill, strike out “Subsection (e) of section 4062” and insert in lieu thereof “Subsection (f) of section 4062 (as redesignated by subsection (a)(1))” and strike out “(e)” the second place it appears and insert in lieu thereof “(f)”.

(29) SECTION 11011(c)(2).—In section 11011(c)(2) of the bill, in section 404(g)(4) of the Internal Revenue Code of 1954, as proposed to be added, strike out “Any” and insert in lieu thereof “For purposes of this subsection, any”, and strike out “the date described in section 11019(a) of the Single-Employer Pension Plan Amendments Act of 1985” and insert in lieu thereof “the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986”.

(30) SECTION 11011(c)(3).—In section 11011(c)(3) of the bill, strike out “the date described in section 11019(a)” and insert in lieu thereof “January 1, 1986,”.

(31) SECTION 11012(a).—In section 11012(a) of the bill, in section 4049(a) of ERISA, as proposed to be added, strike out the last sentence and insert in lieu thereof the following:

“The trust shall be maintained for such period of time as is necessary to receive all liability payments required to be made to the trust under section 4062(c) with respect to the terminated plan and to make all distributions required to be made to participants and beneficiaries under this section with respect to the terminated plan.”

(32) SECTION 11012(a).—In section 11012(a) of the bill, in section 4049 of ERISA, as proposed to be added, strike out so much of subsection (b) as precedes paragraph (2) and insert in lieu thereof the following:

“(b) DESIGNATION OF FIDUCIARY BY THE CORPORATION.—

“(1) PURPOSES FOR DESIGNATION OF FIDUCIARY.—

“(A) COLLECTION OF LIABILITY.—The corporation shall designate a fiduciary (within the meaning of section 3(21)) to

serve as trustee of the trust for purposes of conducting negotiations and assessing and collecting liability pursuant to section 4062(c).

“(B) ADMINISTRATION OF TRUST.—

“(i) CORPORATION’S FUNCTIONS.—Except as provided in clause (ii), the corporation shall serve as trustee of the trust for purposes of administering the trust, including making distributions from the trust to participants and beneficiaries.

“(ii) DESIGNATION OF FIDUCIARY IF COST-EFFECTIVE.—If the corporation determines that it would be cost-effective to do so, it may designate a fiduciary (within the meaning of section 3(21)), including the fiduciary designated under subparagraph (A), to perform the functions described in clause (i).”

(33) SECTION 11012(a).—In section 11012(a) of the bill, in section 4049(c)(1)(A) of ERISA, as proposed to be added, strike out “of” the second place it appears and insert in lieu thereof “to”.

(34) SECTION 11012(a).—In section 11012(a) of the bill, redesignate the second subsection (c) of section 4049 of ERISA, as proposed to be added, as subsection (d).

(35) SECTION 11012(b).—In section 11012(b) of the bill, in section 501(c)(24) of the Internal Revenue Code of 1954, as proposed to be added, strike out “1985” and insert in lieu thereof “1986”.

(36) SECTION 11012(c).—In section 11012(c) of the bill, insert “of such Code” after “section 402(a)”.

(37) SECTION 11012(d).—In section 11012(d) of the bill, strike out “incurred under” and insert in lieu thereof “otherwise payable as provided in”.

(38) SECTION 11013(b).—In section 11013(b) of the bill, strike out “the date described in section 11019(a)” and insert in lieu thereof “January 1, 1986”.

(39) SECTION 11014(a).—In section 11014(a) of the bill, in section 4070(a) of ERISA, as proposed to be added, strike out “A person” and insert in lieu thereof “Any person”, strike out “who is adversely” and insert in lieu thereof “is adversely”, strike out “an employee organization which represents” and insert in lieu thereof “who is an employee organization representing”, and by inserting “so adversely affected” after “beneficiary”.

(40) SECTION 11014(b)(1).—In section 11014(b)(1) of the bill—

(A) in section 4003(f)(1) of ERISA, as proposed to be amended, strike out “who is adversely” and insert in lieu thereof “is adversely”, strike out “and any employee organization which represents” and insert in lieu thereof “, or who is an employee organization representing”, and by inserting “so adversely affected” after “beneficiary”; and

(B) in section 4003(f)(2)(B) of ERISA, as proposed to be amended, insert “for the judicial district” after “district court”.

(41) SECTION 11014(b)(2).—In section 11014(b)(2) of the bill, in section 4003(e)(6)(C) of ERISA, as proposed to be amended, strike out “if such date is later than the date described in clause (i)”.

(42) SECTION 11015(a)(2)(A).—In section 11015(a)(2)(A) of the bill—

(A) in section 412(f)(3)(C)(i) of the Internal Revenue Code of 1954, as proposed to be added, strike out “outstanding” in

subclause (III) and insert in lieu thereof "outstanding", and strike out "subsection (d)" in subclause (III) and insert in lieu thereof "subsection (e)"; and

(B) in section 412(f)(3)(C)(ii) of such Code, as proposed to be added, strike out "of" the fourth place it appears and insert in lieu thereof "or".

(43) SECTION 11015(a)(3).—In section 11015(a)(3) of the bill, strike out "the date described in section 11019(a)" and insert in lieu thereof "the date of the enactment of this Act".

(44) SECTION 11016(a).—In section 11016(a) of the bill—

(A) strike out paragraph (1);

(B) redesignate paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(C) strike out paragraph (4) and insert in lieu thereof the following new paragraph:

"(3) RESTORATION OF PLANS.—Section 4047 (29 U.S.C. 1347) is amended—

"(A) in the first sentence, by inserting 'under section 4041 or 4042' after 'terminated' each place it appears; and

"(B) in the second sentence, by striking out 'section 4042' and inserting in lieu thereof 'section 4041 or 4042'.";

(D) redesignate paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

(E) in paragraph (5)(A)(ii)(I) (as redesignated), strike out ", to which section 4021 applies and";

(F) in paragraph (5)(A)(iii)(I) (as redesignated), insert a comma after "section" the second place it appears;

(G) strike out paragraph (5)(A)(iii)(III) (as redesignated) and insert in lieu thereof the following:

"(III) in paragraph (3), by inserting 'under section 4041(c) or 4042' after 'terminates' and by striking out 'employer' in subparagraph (C) and inserting in lieu thereof 'contributing sponsor.'";

(H) in paragraph (5)(A)(iv)(II) (as redesignated), strike out "and";

(I) in paragraph (5)(A)(iv)(III) (as redesignated), strike out the period and insert in lieu thereof "; and";

(J) in paragraph (5)(A)(iv) (as redesignated), add after subclause (III) the following—

"(IV) in paragraph (2), by striking out 'termination' and inserting in lieu thereof 'plan terminated under section 4042.'";

(K) in paragraph (5)(B) (as redesignated), strike out clause (ii) and insert in lieu thereof the following:

"(ii) Section 4064(b) (29 U.S.C. 1364(b)) is amended to read as follows:

"(b) The corporation shall determine the liability with respect to each contributing sponsor and each member of its controlled group in a manner consistent with section 4062, except that—

"(1) the amount of the liability determined under section 4062(b)(1) with respect to the entire plan—

"(A) shall be determined without regard to clauses (i)(II) and (ii) of section 4062(b)(1)(A), and

"(B) shall be allocated to each controlled group by multiplying such amount by a fraction—

"(i) the numerator of which is the amount required to be contributed to the plan for the last 5 plan years

ending prior to the termination date by persons in such controlled group as contributing sponsors, and  
 “(ii) the denominator of which is the total amount required to be contributed to the plan for such last 5 plan years by all persons as contributing sponsors, and clauses (i)(II) and (ii) of section 4062(b)(1)(A) shall be applied separately with respect to each such controlled group, and  
 “(2) the amount of the liability determined under section 4062(c)(1) with respect to the entire plan shall be allocated to each controlled group by multiplying such amount by the fraction described in paragraph (1)(B) in connection with such controlled group.

The corporation may also determine the liability of each such contributing sponsor and member of its controlled group on any other equitable basis prescribed by the corporation in regulations.”;

(L) in paragraph (5)(C) (as redesignated), strike out “any” the second place it appears in clause (ii), and strike out “comprises with others” in clause (iii) and insert in lieu thereof “(alone or together with members of such contributing sponsor’s controlled group) constitutes”;

(M) in subparagraph (B)(ii) of paragraph (6) (as redesignated), strike out “section 4062(b)(1)(A)” and insert in lieu thereof “section 4062(b)(1)(A)(i)”; and

(N) in subparagraph (B)(vi) of paragraph (6) (as redesignated), in section 4068(c)(1) of ERISA, as proposed to be amended, strike out “1985” and insert in lieu thereof “1986”.

(45) SECTION 11016(c)(3).—In section 11016(c)(3) of the bill, in section 304(c)(1) of ERISA, as proposed to be added, strike out “such application” and insert in lieu thereof “the affected plan”.

(46) SECTION 11016(c)(4).—In section 11016(c)(4) of the bill, strike out “Act” and insert in lieu thereof “title”, and, in section 412(f)(4)(A) of the Internal Revenue Code of 1954, as proposed to be added, strike out “such application” and insert in lieu thereof “the affected plan”.

(47) SECTION 11016(c).—In section 11016(c) of the bill, redesignate paragraphs (12) and (13) as paragraphs (13) and (14), respectively, and insert after paragraph (11) the following:

“(12) CONFORMING AMENDMENT.—Section 4044(a) (29 U.S.C. 1344(a)) is amended by striking out ‘defined benefit’.”.

(48) SECTION 11016(d)(4).—In section 11016(d)(4) of the bill, insert “the” after “of” the second place it appears.

(49) SECTION 11017(a)(2)(A).—In section 11017(a)(2)(A) of the bill, strike out “Act” and insert in lieu thereof “title”.

(50) SECTION 11017(a)(2)(G).—In section 11017(a)(2)(G) of the bill, strike out “a” and insert in lieu thereof “an”.

(51) SECTION 11017(b)(2).—In section 11017(b)(2) of the bill, strike out “February 1, 1986,” and insert in lieu thereof “May 1, 1986.”.

(52) SECTION 11018(a)(1)(C).—In section 11018(a)(1)(C) of the bill, insert “the date of the” after “prior to” in the matter following clause (iv).

(53) SECTION 11018(b).—In section 11018(b) of the bill, strike out all the single quotation marks and insert in lieu thereof double quotation marks, and in paragraph (4)(H), strike out “limitaiton” and insert in lieu thereof “limitation”.



(54) SECTION 11019.—In section 11019 of the bill, redesignate subsection (b) as subsection (c), and strike out subsection (a) and insert in lieu thereof the following new subsections:

“(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall be effective as of January 1, 1986, except that such amendments shall not apply with respect to terminations for which—

Effective date.

“(1) notices of intent to terminate were filed with the Pension Benefit Guaranty Corporation under section 4041 of the Employee Retirement Income Security Act of 1974 before such date, or

“(2) proceedings were commenced under section 4042 of such Act before such date.

“(b) TRANSITIONAL RULES.—

“(1) IN GENERAL.—In the case of a single-employer plan termination for which a notice of intent to terminate was filed with the Pension Benefit Guaranty Corporation under section 4041 of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this title) on or after January 1, 1986, but before the date of the enactment of this Act, the amendments made by this title shall apply with respect to such termination, as modified by paragraphs (2) and (3).

“(2) DEEMED COMPLIANCE WITH NOTICE REQUIREMENTS.—The requirements of subsections (a)(2), (b)(1)(A), and (c)(1)(A) of section 4041 of the Employee Retirement Income Security Act of 1974 (as amended by this title) shall be considered to have been met with respect to a termination described in paragraph (1) if—

“(A) the plan administrator provided notice to the participants in the plan regarding the termination in compliance with applicable regulations of the Pension Benefit Guaranty Corporation as in effect on the date of the notice, and

“(B) the notice of intent to terminate provided to the Pension Benefit Guaranty Corporation in connection with the termination was filed with the Corporation not less than 10 days before the proposed date of termination specified in the notice.

For purposes of section 4041 of such Act (as amended by this title), the proposed date of termination specified in the notice of intent to terminate referred to in subparagraph (B) shall be considered the proposed termination date.

Termination date.

“(3) SPECIAL TERMINATION PROCEDURES.—

“(A) IN GENERAL.—This paragraph shall apply with respect to any termination described in paragraph (1) if, within 90 days after the date of enactment of this Act, the plan administrator notifies the Corporation in writing—

“(i) that the plan administrator wishes the termination to proceed as a standard termination under section 4041(b) of the Employee Retirement Income Security Act of 1974 (as amended by this title) in accordance with subparagraph (B),

“(ii) that the plan administrator wishes the termination to proceed as a distress termination under section 4041(c) of such Act (as amended by this title) in accordance with subparagraph (C), or

“(iii) that the plan administrator wishes to stop the termination proceedings in accordance with subparagraph (D).

**“(B) TERMINATIONS PROCEEDING AS STANDARD TERMINATION.—**

**“(i) TERMINATIONS FOR WHICH SUFFICIENCY NOTICES HAVE NOT BEEN ISSUED.—**

**“(I) IN GENERAL.—**In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(i) and with respect to which a notice of sufficiency has not been issued by the Corporation before the date of the enactment of this Act, if, during the 90-day period commencing on the date of the notice required in subclause (II), all benefit commitments under the plan have been satisfied, the termination shall be treated as a standard termination under section 4041(b) of such Act (as amended by this title).

**“(II) SPECIAL NOTICE REGARDING SUFFICIENCY FOR TERMINATIONS FOR WHICH NOTICES OF SUFFICIENCY HAVE NOT BEEN ISSUED AS OF DATE OF ENACTMENT.—**In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(i) and with respect to which a notice of sufficiency has not been issued by the Corporation before the date of the enactment of this Act, the Corporation shall make the determinations described in section 4041(c)(3)(A) (i) and (ii) (as amended by this title) and notify the plan administrator of such determinations as provided in section 4041(c)(3)(A)(iii) (as amended by this title).

**“(ii) TERMINATIONS FOR WHICH NOTICES OF SUFFICIENCY HAVE BEEN ISSUED.—**In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(i) and with respect to which a notice of sufficiency has been issued by the Corporation before the date of the enactment of this Act, clause (i)(I) shall apply, except that the 90-day period referred to in clause (i)(I) shall begin on the date of the enactment of this Act.

**“(C) TERMINATIONS PROCEEDING AS DISTRESS TERMINATION.—**In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(ii), if the requirements of section 4041(c)(2)(B) of such Act (as amended by this title) are met, the termination shall be treated as a distress termination under section 4041(c) of such Act (as amended by this title).

**“(D) TERMINATION OF PROCEEDINGS BY PLAN ADMINISTRATOR.—**

**“(i) IN GENERAL.—**Except as provided in clause (ii), in the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(iii), the termination shall not take effect.

"(ii) TERMINATIONS WITH RESPECT TO WHICH FINAL DISTRIBUTION OF ASSETS HAS COMMENCED.—Clause (i) shall not apply with respect to a termination with respect to which the final distribution of assets has commenced before the date of the enactment of this Act unless, within 90 days after the date of the enactment of this Act, the plan has been restored in accordance with procedures issued by the Corporation pursuant to subsection (c).

"(E) AUTHORITY OF CORPORATION TO EXTEND 90-DAY PERIODS TO PERMIT STANDARD TERMINATION.—The Corporation may, on a case-by-case basis in accordance with subsection (c), provide for extensions of the applicable 90-day period referred to in clause (i) or (ii) of subparagraph (B) if it is demonstrated to the satisfaction of the Corporation that—

"(i) the plan could not otherwise, pursuant to the preceding provisions of this paragraph, terminate in a termination treated as a standard termination under section 4041(b) of the Employee Retirement Income Security Act of 1974 (as amended by this title), and

"(ii) the extension would result in a greater likelihood that benefit commitments under the plan would be paid in full,

except that any such period may not be so extended beyond one year after the date of the enactment of this Act."

Agreed to March 26, 1986.

## COMMERCIAL TIED AID CREDITS—RESTRICTIONS

Apr. 14, 1986  
[S. Con. Res. 127]

Whereas tied aid and partially untied aid credits with low levels of concessionality are used by several governments as a predatory method of financing exports and result in market-distorting effects;

Exports.

Whereas these distortions have caused the United States to lose export sales, with resulting losses in economic growth and development;

Whereas the Congress is preparing legislation intended to support the efforts of the Secretary of the Treasury to negotiate a comprehensive arrangement restricting the use of tied and partially untied aid credits for commercial purposes; and

Whereas these negotiating efforts of the Secretary of the Treasury are fully supported by the Congress of the United States: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—*

(1) a successful conclusion of an arrangement to regulate tied aid credits, so that their use for predatory commercial purposes is ended, would eliminate the need for the Congress to enact a special tied aid credit program;

(2) the Secretary of the Treasury should use the full resources of his office to promote such a successful conclusion to the negotiations; and